

Message Text

UNCLASSIFIED

PAGE 01 TAIPEI 03412 100819Z

ACTION EA-09

INFO OCT-01 IO-14 ISO-00 DHA-02 SSO-00 NSCE-00 INRE-00

USIE-00 CIAE-00 DODE-00 PM-04 H-02 INR-07 L-03

NSAE-00 NSC-05 PA-02 PRS-01 SP-02 SS-15 OMB-01

TRSE-00 HEW-06 /074 W

-----100821Z 014870 /10

O 100730Z JUN 77

FM AMEMBASSY TAIPEI

TO SECSTATE WASHDC IMMEDIATE 3875

UNCLAS TAIPEI 3412

E.O. 11652: N/A

TAGS: PGOV, SHUM, TW

SUBJECT: PREMIER'S REMARKS ON CONSTITUTIONAL RIGHTS

1. FOLLOWING IS TEXT OF PREMIER'S REMARKS MADE AT CABINET MEETING ON THURSDAY, JUNE 9, AND RELEASED BY THE GOVERNMENT INFORMATION OFFICE (GIO):

QUOTE

THE CONSTITUTION OF THE REPUBLIC OF CHINA WAS ADOPTED BY THE NATIONAL ASSEMBLY WITH THE MANDATE OF ALL THE PEOPLE OF THE COUNTRY. IT WAS INTENDED TO CONSOLIDATE THE NATION'S POWERS, SAFEGUARD HUMAN RIGHTS, ASSURE A PEACEFUL SOCIETY AND PROMOTE THE PEOPLE'S WELFARE. ARTICLE 1 OF THE CONSTITUTION DECLARES: "THE REPUBLIC OF CHINA, FOUNDED ON THE THREE PRINCIPLES OF THE PEOPLE, SHALL BE A DEMOCRATIC REPUBLIC OF THE PEOPLE, TO BE GOVERNED BY THE PEOPLE AND FOR THE PEOPLE." IN OTHER WORDS, THE SOVEREIGN OF THE REPUBLIC OF CHINA IS THE WHOLE BODY OF THE PEOPLE, AND THE VARIOUS FREEDOMS AND RIGHTS OF THE PEOPLE ARE PROTECTED IN ACCORDANCE WITH THE CONSTITUTION.

THE CONSTITUTION PROVIDES THAT THE CENTRAL GOVERNMENT
UNCLASSIFIED

UNCLASSIFIED

PAGE 02 TAIPEI 03412 100819Z

IS TO BE COMPOSED OF THE NATIONAL ASSEMBLY, WHICH ELECTS THE PRESIDENT AND VICE PRESIDENT, AND FIVE YUAN--THE EXECUTIVE YUAN, LEGISLATIVE YUAN, JUDICIAL YUAN, EXAMINATION YUAN AND CONTROL YUAN. MEMBERS OF THE NATIONAL ASSEMBLY AND THE LEGISLATIVE YUAN ARE ELECTED BY DIRECT SUFFRAGE, WHEREAS THE MEMBERS OF THE CONTROL YUAN ARE ELECTED BY COUNCILS OF THE VARIOUS PROVINCES AND SPECIAL MUNICIPALITIES.

TOGETHER, THE NATIONAL ASSEMBLY, THE LEGISLATIVE YUAN AND THE CONTROL YUAN CONSTITUTE THE EQUIVALENT OF PARLIAMENT IN OTHER DEMOCRATIC COUNTRIES. THE EXECUTIVE YUAN IS THE HIGHEST ADMINISTRATIVE BODY OF THE GOVERNMENT AND IS RESPONSIBLE TO THE LEGISLATIVE YUAN. UNDER THE CONSTITUTION, THE FIVE YUAN CHECK AND BALANCE EACH OTHER IN FULFILLING THE FUNCTIONS OF DEMOCRACY. THIS POLITICAL SYSTEM IS BASED ON THE TEACHINGS OF DR. SUN YAT-SEN, THE NATIONAL FATHER, AND HAS SUSTAINED THE SPIRIT AND IDEAL OF A MODERN DEMOCRACY RULED BY LAW. UNDER ITS CONSTITUTION, THE REPUBLIC OF CHINA HAS STEADFASTLY IMPLEMENTED DEMOCRACY AND THE RULE OF LAW AND SAFEGUARDED HUMAN RIGHTS.

SOME ASPECTS OF THE ABOVE SYSTEM MAY OCCASION CONCERN. I WOULD LIKE TO TAKE THEM UP BRIEFLY AS FOLLOWS:

1. THE QUESTION OF THE INDEPENDENCE OF TRIALS: UNDER OUR JUDICIAL SYSTEM, TRIALS AND JUDICIAL ADMINISTRATION ARE SEPARATE AND DISTINCT. THE TRIAL SYSTEM OF THE COURTS IS UNDER THE JURISDICTION OF THE JUDICIAL YUAN, WHEREAS NONTRIAL JUDICIAL ADMINISTRATION IS HANDLED BY THE MINISTRY OF JUSTICE OF THE EXECUTIVE YUAN. THE CONSTITUTION REQUIRES THAT IN PRESIDING OVER CIVIL, CRIMINAL OR ADMINISTRATIVE CASES, JUDGES SHALL BE NONPARTISAN AND SHALL CONDUCT TRIALS UNDER THE LAW, INDEPENDENTLY AND FREE FROM ANY INTERFERENCE. THE PLACING OF JUDICIAL ADMINISTRATION UNDER AN EXECUTIVE AGENCY IS NOT UNUSUAL; PRECEDENTS ARE FOUND IN MANY DEMOCRATIC COUNTRIES.

UNCLASSIFIED

UNCLASSIFIED

PAGE 03 TAIPEI 03412 100819Z

2. QUESTION OF "POLITICAL PRISONERS": THE TERM "POLITICAL PRISONER" USUALLY MEANS THAT AN INDIVIDUAL WHO HAS NOT LAWFULLY COMMITTED ANY OFFENSE OR CRIME BUT IS IMPRISONED MERELY BECAUSE HE HOLDS DIFFERENT POLITICAL VIEWS. (SIC) IN THIS SENSE, THE REPUBLIC OF CHINA HAS NO POLITICAL PRISONERS. NO NATION TOLERATES CONSPIRACIES OR ACTIONS INTENDED TO OVERTHROW THE GOVERNMENT BY FORCE AND VIOLENCE. SOME CRIMINALS WERE CONVICTED IN ACCORDANCE WITH LAW FOR THEIR UNLAWFUL ACTS IN PLOTTING TO UNDERMINE THE APPLICATION OF THE CONSTITUTION, SUBVERTING THE GOVERNMENT OR COLLUDING WITH THE ENEMY AGAINST THE NATION AND THE PEOPLE.

3. THE CONTINUED EXISTENCE OF THE STATE OF MARTIAL LAW IN TAIWAN: MARTIAL LAW WAS APPROVED BY THE LEGISLATIVE YUAN IN ACCORDANCE WITH THE CONSTITUTIONAL REQUIREMENTS. THE STATE OF MARTIAL LAW IN TAIWAN WAS ALSO APPROVED BY THE LEGISLATIVE YUAN BY THE SAME PROCESS OF LAW. THE MARTIAL LAW AGAINST COMMUNISM HAS BEEN TAKEN TO PREVENT THE INFILTRATION AND SUBVERSION OF COMMUNIST AGENTS, TO ASSURE

THE SECURITY OF THE NATION AND SOCIETY, AND TO PROTECT THE LIVES AND PROPERTIES OF THE PEOPLE. THE COMMUNIST THREAT TO THE REPUBLIC OF CHINA HAS NOT RECEDED. MARTIAL LAW IS THEREFORE AS MUCH A REQUISITE TODAY AS EVER BEFORE. BUT, WE MUST EMPHASIZE, THE ACTUAL EXERCISE OF MARTIAL LAW IS ALMOST EXCLUSIVELY CONFINED TO MATTERS OF NATIONAL SECURITY. THE CIVIL COURTS REMAIN OPEN. THEY TRY ALL NORMAL CRIMINAL AND CIVIL CASES. WE HAVE NOT SUSPENDED THE CONSTITUTION OR DISSOLVED THE PARLIAMENT. WE HAVE NOT SUSPENDED THE FUNDAMENTAL RIGHTS OF THE PEOPLE AS SET FORTH IN THE CONSTITUTION, NOR IMPOSED ON THE PEOPLE A MILITARY GOVERNMENT.

4. THE SUBSTANTIVE CHARACTER OF A MILITARY COURT:
THE SUBSTANCE OF JUSTICE AS APPLIED IN THE MILITARY COURT UNDER THE MARTIAL LAW IS THE SAME AS THAT WHICH PREVAILS IN AN ORDINARY CIVIL COURT. THE TRIAL PROCEEDINGS OF THE
UNCLASSIFIED

UNCLASSIFIED

PAGE 04 TAIPEI 03412 100819Z

MILITARY COURT ARE OPEN TO THE PUBLIC AND THE DEFENDANT IS ALLOWED TO RETAIN COUNSEL. IF THE DEFENDANT DOES NOT ACCEPT THE JUDGMENT OF THE COURT AT FIRST INSTANCE, HE IS ENTITLED TO APPEAL. IF THE JUDGMENT IS UPHELD UPON APPEAL, THE DEFENDANT MAY SEEK A RETRIAL OR AN EXTRAORDINARY TRIAL. THE PROCEDURES ASSURE THE PROTECTION OF THE RIGHTS AND INTERESTS OF THE DEFENDANT.

WITH ONE MIND AND ONE WILL, THE REPUBLIC OF CHINA WILL CONTINUE TO ADHERE TO ITS NATIONAL SPIRIT, UPHOLD

ITS CONSTITUTIONAL SYSTEM, IMPLEMENT DEMOCRACY AND THE RULE OF LAW, SAFEGUARD CIVIL RIGHTS, RESPECT HUMAN RIGHTS, ASSURE SOCIAL ORDER AND PROMOTE PEOPLE'S GENERAL WELFARE.
UNQUOTE

2. COMMENT: THE PREMIER'S REMARKS WERE GIVEN MOST PROMINENT TREATMENT IN ALL LOCAL PAPERS TODAY. WIDE-SPREAD EDITORIAL COMMENT WAS ALL FAVORABLE. WE HAVE LITTLE DOUBT THAT THE PREMIER'S REMARKS WERE PROMPTED IN GENERAL BY OUR HUMAN RIGHTS DIALOGUE WITH GROC AND IN PARTICULAR PERHAPS, BY THE PROSPECT OF THE CONGRESSIONAL HEARING JUNE 14.
UNGER

UNCLASSIFIED

NNN

Message Attributes

Automatic Decaptioning: X
Capture Date: 01-Jan-1994 12:00:00 am
Channel Indicators: n/a
Current Classification: UNCLASSIFIED
Concepts: CONSTITUTION, HUMAN RIGHTS, POLICIES, SPEECHES, CENTRAL GOVERNMENT
Control Number: n/a
Copy: SINGLE
Sent Date: 10-Jun-1977 12:00:00 am
Decaption Date: 01-Jan-1960 12:00:00 am
Decaption Note:
Disposition Action: n/a
Disposition Approved on Date:
Disposition Case Number: n/a
Disposition Comment:
Disposition Date: 01-Jan-1960 12:00:00 am
Disposition Event:
Disposition History: n/a
Disposition Reason:
Disposition Remarks:
Document Number: 1977TAIPEI03412
Document Source: CORE
Document Unique ID: 00
Drafter: n/a
Enclosure: n/a
Executive Order: N/A
Errors: N/A
Expiration:
Film Number: D770207-0457
Format: TEL
From: TAIPEI
Handling Restrictions: n/a
Image Path:
ISecure: 1
Legacy Key: link1977/newtext/t19770667/aaaacgwa.tel
Line Count: 162
Litigation Code IDs:
Litigation Codes:
Litigation History:
Locator: TEXT ON-LINE, ON MICROFILM
Message ID: 116ae57e-c288-dd11-92da-001cc4696bcc
Office: ACTION EA
Original Classification: UNCLASSIFIED
Original Handling Restrictions: n/a
Original Previous Classification: n/a
Original Previous Handling Restrictions: n/a
Page Count: 3
Previous Channel Indicators: n/a
Previous Classification: n/a
Previous Handling Restrictions: n/a
Reference: n/a
Retention: 0
Review Action: RELEASED, APPROVED
Review Content Flags:
Review Date: 09-Nov-2004 12:00:00 am
Review Event:
Review Exemptions: n/a
Review Media Identifier:
Review Release Date: n/a
Review Release Event: n/a
Review Transfer Date:
Review Withdrawn Fields: n/a
SAS ID: 2188630
Secure: OPEN
Status: NATIVE
Subject: PREMIER'S REMARKS ON CONSTITUTIONAL RIGHTS
TAGS: PGOV, SHUM, TW
To: STATE
Type: TE
vdkgvwkey: odbc://SAS/SAS.dbo.SAS_Docs/116ae57e-c288-dd11-92da-001cc4696bcc
Review Markings:
Margaret P. Grafeld
Declassified/Released
US Department of State
EO Systematic Review
22 May 2009
Markings: Margaret P. Grafeld Declassified/Released US Department of State EO Systematic Review 22 May 2009